IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

WP(C).No. 33186 of 2006(A)

PETITIONER:

ANTONY, S/O.VAREED, AGED 66,
KODIYAM HOUSE, ERUMELY KARA,
KUNNATHUNADU TALUK, KUMARAPURAM P.O., ERNAKULAM.

BY ADV. SRI.R. DIVAKARAN

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY
SECRETARY TO REVENUE DEPARTMENT, SECRETARIATE,
THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR,
COLLECTORATE AND CIVIL STATION,
ERNAKULAM DISTRICT.

3. REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISION,
MOOVATTUPUZHA.

BY GOVERNMENT PLEADER SHRI L.G. SURESH BABU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T. SANKARAN, J.

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W.P.(C) No. 33186 of 2006

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Dated this the 13th December, 2006

J U D G M E N T

A reading of the Writ Petition as well as Ext. P6 would clearly establish that neither the petitioner nor the Revenue Divisional Officer has fully comprehended the factual and legal situation arising out of the facts of the case.

2. Land belonging to the petitioner was acquired. It is stated in ground (E) in the memorandum of the Writ Petition that no award was passed in the acquisition proceedings. This is evidently wrong since Ext.P1 notice of award issued under section 12(2) of the Land Acquisition Act indicates that an award was passed. Ext.P1 shows the amount awarded. The petitioner was directed to appear before the Land

Acquisition Officer to receive the compensation on 28.03.2006. Ext.P4 is a representation dated 16.05.2006 submitted by the petitioner to the District Collector, wherein reference is made with regard to his representation dated 27.03.2006 submitted before the District Collector. In Ext. P4 representation, the grievance of the petitioner is that his property was not properly valued, whereas the neighbouring property acquired under the same notification was valued at a much higher rate and compensation was awarded on that basis. If the representation dated 27.03.2006 points out the grievance of the petitioner as regards compensation amount fixed by the Land Acquisition Officer, it could be treated as an application for reference and a reference could have been made under section 18 of the Land Acquisition Act. In Ext. P4 representation, it is stated that the amount awarded to the petitioner is very low, unreasonable, unjust and discriminatory. The petitioner had also produced copy of the award passed in another case along with his representation. It is also stated in Ext. P4 that in view of the award made in favour of his neighbouring property owner, the copy of which was

produced along with his representation, the petitioner is entitled to get a higher amount as compensation. Ext. P5 is another representation dated 07.10.2006 submitted by the petitioner before the District Collector wherein also a reference is made to his representation dated 27.03.2006. The District Collector forwarded Ext. P5 representation to the Revenue Divisional Officer, Muvattupuzha for onward enquiry, necessary action and report. Ext.P6 is the report submitted by the Revenue Divisional Officer to the District Collector. It is mentioned therein that as per the letter dated 29.05.2006, the petition submitted by the petitioner was dismissed directing him to file an application under section 18 of the Land Acquisition Act after passing the award. It is not clear from Ext. P6 as to whether the Revenue Divisional Officer was aware of passing of the award or whether it is only an advice to file an application for reference after passing the award. The fact remains that the petitioner has not stated anything in the Writ Petition as to what transpired in respect of his representation dated 27.03.2006 nor did the Revenue Divisional Officer say anything in Ext. P6 about the representation dated 27.03.2006. It is also stated in Ext. P6 that

80% of the advance amount of Rs. 6,75,595/- was received by the petitioner on 30.08.2006 as per the directions contained in the letter dated 16.06.2006. Ex.P6 is concluded by saying that "it is open to the petitioner to file his contentions before the Land Acquisition Reference Court under section 18 of the Land Acquisition Act, 1984".

3. One thing is clear that the petitioner has a grievance that proper value was not awarded in respect of his land. It is also clear from Exts. P4 and P5 that the petitioner has shown in those representations that he had submitted a representation dated 27.03.2006. The said representation is not seen disposed of and nothing is stated in Ext. P6 about disposal of that representation. It is also not clear on which date Ext.P1 notice of award dated 14th March 2006 was served on the petitioner. Therefore it is not clear as to whether Ext. P4 representation could be treated as an application for reference made within the time limit. These are all aspects which the third respondent has to consider with reference to the records. If on 27.03.2006 the petitioner has submitted a representation containing his grievance that a proper land value was not awarded, the third

respondent shall consider as to whether it could be treated as an application for reference under section 18 of the Land Acquisition Act . The third respondent shall also consider as to whether Ext. P4 representation was filed within the period of limitation prescribed for making a reference application after receipt of Ext. P1 notice of award. The third respondent shall also consider as to whether either the representation dated 27.03.2006 or Ext. P4 representation dated 16.05.2006 could be treated as an application for reference. After hearing the petitioner, the third respondent shall pass a considered order and if reference is necessary, he shall do so.

The Writ Petition is disposed of as above.

K.T. SANKARAN,
JUDGE.

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